

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

**CAROLYN PLACHT, on behalf of the
Symbria Inc. Employee Stock Ownership
Plan and on behalf of a class of all other
persons similarly situated,**

Plaintiff,

v.

**ARGENT TRUST COMPANY,
JILL KRUEGER,
THOMAS NOESEN, JR.,
JOHN R. CALLEN,
CENTRAL BAPTIST VILLAGE,
COVENANT RETIREMENT
COMMUNITIES, INC.,
FRANCISCAN SISTERS OF CHICAGO
SERVICE CORPORATION,
LIFELINK CORPORATION,
LUTHERAN HOME AND SERVICES
FOR THE AGED, INC.,
MATHER LIFEWAYS,
NORWEGIAN LUTHERAN BETHESDA
HOME ASSOCIATION,
NORWOOD LIFE CARE FOUNDATION,
FRIENDSHIP SENIOR OPTIONS, NFP,
REST HAVEN ILLIANA CHRISTIAN
CONVALESCENT HOME,
ST. PAULS HOUSE & HEALTHCARE
CENTER, and
UNITED METHODIST HOMES &
SERVICES,**

Defendants.

Case No. 1:21-cv-05783

Hon. Ronald A. Guzman

Hon. Beth W. Jantz

JOINT STATUS REPORT ON DISCOVERY

In accordance with the Court's February 28, 2022 minute entry (Dkt. 49), Plaintiff Carolyn Placht, on behalf of the Symbria Inc. Employee Stock Ownership Plan, and similarly situated

participants in the Plan and their beneficiaries (“Plaintiff”), and Defendants Argent Trust Company (“Argent”), Jill Krueger (“Kreuger”), Thomas Noesen, Jr. (“Noesen”), John R. Callen (“Callen”), Central Baptist Village, Covenant Retirement Communities, Inc., Franciscan Sisters of Chicago Service Corporation, LifeLink Corporation, Lutheran Home and Services for the Aged, Inc., Mather Lifeways, Norwegian Lutheran Bethesda Home Association, Norwood Life Care Foundation, Friendship Senior Options, NFP, Rest Haven Illiana Christian Convalescent Home, St. Paul’s House & Healthcare Center, and United Methodist Homes & Services (the “Community Defendants” and together with Argent, Krueger, Noesen, and Callen the “Defendants”), submit the following joint status report on discovery:

I. Status of Written Discovery

A. Plaintiff’s Written Discovery

Plaintiff issued requests for production of documents (“Plaintiff’s RFPD”) to Defendants on February 22, 2022.

Argent responded and interposed objections to Plaintiff’s RFPD on March 24, 2022. Plaintiff addressed some of Argent’s objections in an April 22, 2022 letter and Plaintiff’s counsel and Argent’s counsel conferred regarding Argent’s objections on May 10, 2022. The only outstanding issue following that conferral is whether Argent will produce valuation reports after 2018. Argent produced 77 documents on May 9, 2022. Argent has not stated when it will complete its production of documents. Plaintiff may seek court intervention if Argent does not complete its production of responsive documents by June 17, 2022.

The Community Defendants responded and interposed objections to Plaintiff’s RFPD on March 24, 2022. Plaintiff’s counsel and the Community Defendants’ counsel conferred on April 6, 2022 regarding a potential protocol for search and production. Plaintiff sent a proposal for search

and production of documents and addressed some of the Community Defendants' objections in an April 22, 2022 letter. Plaintiff's counsel and Community Defendants' counsel conferred on May 17, 2022 regarding Plaintiff's April 22 letter. The Community Defendants' current proposal is: (i) that they will search for and produce responsive documents, other than e-mails, for all twelve Community Defendants, which they are currently diligently collecting and reviewing, and will make an initial production on May 31 with the goal of trying to complete production by the end of June, but are not able at this time to provide a date certain by which they will be able to fully complete production; (ii) they will first search for and produce responsive e-mails and attachments for four of the Community Defendants identified by Plaintiff and will complete that process by the end of June 2022; and (iii) to the extent the remaining Community Defendants have responsive e-mails that are not duplicative of emails already produced by the other Community Defendants, the parties will then confer regarding how and when those e-mail searches will be completed. Plaintiff is considering the Community Defendants' May 17 proposal but will likely insist on a June 30, 2022 deadline for the Community Defendants to complete their productions.

Krueger and Noesen responded and interposed objections to Plaintiff's RFPD on March 24, 2022. Plaintiff addressed some of Krueger and Noesen's objections in an April 22, 2022 letter and Plaintiff's counsel and Krueger and Noesen's counsel conferred on April 28, 2022. Krueger and Noesen (together with non-party Symbria) made a first production of documents on May 10, 2022. Krueger and Noesen (together with non-party Symbria) have set a goal of completing production by June 30, 2022, with a privilege log to follow.

Callen responded and interposed objections to Plaintiff's RFPD on March 25, 2022. Plaintiff addressed some of Callen's objections in an April 22, 2022 letter and Plaintiff's counsel and Callen's counsel conferred on May 17, 2022. Callen's counsel stated that Mr. Callen will not

have many responsive documents in his custody or control but the parties are working together to search for and produce any documents.

Plaintiff issued document subpoenas on the following non parties with April 4, 2022 return dates: (1) Houlihan Lokey; (2) McDermott, Will & Emery, LLP (“MWE”); (3) Pendo Advisors, LLC (“Pendo”); (4) Stout Risius Ross, LLC (“Stout”); (5) Symbria, Inc.; and (6) Verit Advisors.

Houlihan Lokey produced one responsive document on March 28, 2022. On May 18, 2022, Houlihan Lokey produced additional documents for processing.

MWE served responses and objections and produced 109 documents on May 16, 2022. MWE has stated it believes it has produced all responsive, nonprivileged documents in its possession, custody, or control. Plaintiff will need to review the documents, produced this week, to evaluate whether MWE’s statement that its production is complete.

Pendo served responses and objections on April 18, 2022. Plaintiff addressed some of Pendo’s objections in an April 22, 2022 letter and Plaintiff’s counsel and Pendo’s counsel conferred on May 2, 2022. Pendo produced 209 documents on May 4, 2022 and stated e-mails would be produced shortly thereafter. On May 18, 2022, Pendo stated it would produce responsive e-mails the week of May 23.

Stout served responses and objections on May 16, 2022 and stated it would make an initial production of documents by May 31, 2022. Stout has not stated when it expects to complete its document production. Plaintiff may seek court intervention if Stout does not complete its production of responsive documents by June 30, 2022.

Symbria served responses and objections on May 10, 2022. Symbria made a first production of documents on May 10, 2022 (together with Krueger and Noesen).. Symbria (together

with Krueger and Noesen) have set a goal of completing production by June 30, 2022, with a privilege log to follow.

Verit produced four (4) documents on April 12, 2022 and stated it destroyed all other potentially responsive documents based on its document retention policy.

Based on the documents recently produced, Plaintiff intends to issue a document subpoena on Prairie Capital Advisors, a non party who was not disclosed in any of the Defendants Rule 26(a)(1) disclosures.

B. Defendants' Written Discovery

Defendants issued interrogatories (“Defendants’ Interrogatories”), requests for production of documents (“Defendants’ RFPD”), and requests for admission (“Defendants’ Written Discovery”) to Plaintiff on March 21, 2022. Plaintiff responded and interposed objections to Defendants’ Written Discovery on April 20, 2022. Plaintiff produced responsive documents on May 9, 2022. Argent addressed some of Plaintiff’s objections and responses in a May 10, 2022 letter and Plaintiff’s counsel and Argent’s counsel are scheduled to confer on May 20, 2022. Subject to the May 20 conference, Plaintiff considers her production of documents complete.

II. Parties’ Plans for Taking Depositions

A. Plaintiff’s Deposition Plan

As described above, Plaintiff has not received most of the documents that will be produced by Defendants and non parties. Therefore, the following list is subject to change based on Plaintiff’s review of the documents, but Plaintiff currently intends to depose the following individuals or entities: (1) a Rule 30(b)(6) deposition of Argent; (2) a Rule 30(b)(6) deposition of Stout; (3) Bill Merten (MWE); (4) Krueger; (5) Noesen; (6) Callen; (7) a Rule 30(b)(6) deposition of Symbria; (8) a Rule 30(b)(6) deposition of Central Baptist Village; (9) a Rule 30(b)(6)

deposition of Covenant Retirement Communities, Inc.; (10) a Rule 30(b)(6) deposition of Franciscan Sisters of Chicago Service Corporation; (11) a Rule 30(b)(6) deposition of LifeLink Corporation; (12) a Rule 30(b)(6) deposition of Lutheran Home and Services for the Aged, Inc.; (13) a Rule 30(b)(6) deposition of Mather Lifeways; (14) a Rule 30(b)(6) deposition of Norwegian Lutheran Bethesda Home Association; (15) a Rule 30(b)(6) deposition of Norwood Life Care Foundation; (16) a Rule 30(b)(6) deposition of Friendship Senior Options, NFP; (17) a Rule 30(b)(6) deposition of Rest Haven Illiana Christian; (18) a Rule 30(b)(6) deposition of n Convalescent Home; (19) a Rule 30(b)(6) deposition of St. Paul's House & Healthcare Center; (20) a Rule 30(b)(6) deposition of United Methodist Homes & Services; (21) a Rule 30(b)(6) deposition of Verit Advisors; (22) a Rule 30(b)(6) deposition of Pendo Advisors; (23) a Rule 30(b)(6) deposition of Prairie Capital Advisors; (24) a Rule 30(b)(6) deposition of The Washington and Jane Smith Home. Plaintiff will need to request additional depositions in this case given the number of current defendants and non parties with critical information.

Fact discovery is currently scheduled to close on December 5, 2022. Based on current document production and estimates, it does not appear that Defendants and non parties will complete production until June 30, 2022 at the earliest. Plaintiff will then need time to review and potentially meet and confer and move to compel if there are any disagreements about the documents produced. If those timelines generally hold, Plaintiff expects to begin taking depositions in September to complete them by December 5, 2022.

B. Defendants' Deposition Plan

Defendants intend to depose Plaintiff Carolyn Placht, and will coordinate with Plaintiff's counsel to do so prior to the filing of any motion for class certification. At this time, Defendants also reserve the right to depose the individuals and entities listed in Plaintiff's Deposition Plan.

Dated: May 19, 2022

Respectfully submitted,
BAILEY & GLASSER LLP

/s/ Patrick Muench

Patrick O. Muench
318 W. Adams Street
Suite 1606
Chicago, IL 60606
Telephone: (312) 500-8680
Facsimile: (304) 342-1110
pmuench@baileyglasser.com

Ryan T. Jenny

Gregory Y. Porter (*pro hac vice to be filed*)
1055 Thomas Jefferson Street, NW
Suite 540
Washington, DC 20007
Telephone: (202) 463-2101
Facsimile: (202) 463-2103
rjenny@baileyglasser.com
gporter@baileyglasser.com

Attorneys for Plaintiff

/s/ Michael J. Scotti, III

Michael John Scotti, III
Roetzel & Andress LPA
30 N. LaSalle Street
Suite 2800
Chicago, IL 60602
(312)580-1200
mscotti@ralaw.com

Attorney for Defendant John Callen

/s/ J. Christian Nemeth

Theodore Michaelson Becker
John Christian Nemeth
McDermott Will & Emery
444 West Lake Street
Suite 4000
Chicago, IL 60606
(312) 372-2000
tbecker@mwe.com
jcnemeth@mwe.com

Attorneys for Community Defendants

/s/ Michael L. Scheier

Michael L Scheier
Jacob Deniro Rhode
Keating, Muething & Klekamp
1 East 4th Street
Suite 1400
Cincinnati, OH 45202
(513) 579-6952
mscheier@kmklaw.com
jrhode@kmklaw.com

Ross David Taylor
Keating Muething & Klekamp PLL
125 S. Clark Street
17th Floor
Chicago, IL 60603
(513) 639-3935
rtaylor@kmklaw.com

*Attorneys for Defendants Jill Kreuger and
Thomas Noesen*

/s/ Gregory F. Jacob

Gregory Jacob
Shannon M. Barrett
Deanna Marie Rice
O'Melveny & Myers LLP
1625 I St NW
Washington, DC 20006
(202) 383-5308
gjacobsomm.com
sbarrettomm.com
Dericeomm.com

Jeffrey Andrew Soble
John R. Landis
Samantha Ann Sadler
Foley & Lardner
321 North Clark Street
Suite 2800
Chicago, IL 60654
(312) 832-4500
jsoble@foley.com
jrlandis@foley.com
ssadler@foley.com

*Attorneys for Defendant Argent
Trust Company*

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of May 2022, a copy of the foregoing document was served on all counsel of record via ECF.

/s/ Patrick O. Muench
Patrick O. Muench